

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Tuesday, the Twenty Seventh day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.2895 of 2018

IN CRL RC.259/2018

1 K.MARIAPPAN

[ PETITIONERS ]

2 VANAJA

Vs

PERIYASAMY

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.259/2018 on the file of the High Court, the High Court will be pleased to suspend the Judgement in CA No.13 of 2016 dated 16.02.2018 on the files of the Additional District and Sessions Judge, Dharmapuri, confirming the Judgement dated 21.10.2016 in STC No.121 of 2014 on the file of the Fast Track (Judicial Magistrate Level) and to enlarge them on bail pending disposal of the Crl.R.C.NO.259/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.259/2018 on the file of the High Court and upon hearing the arguments of M/S.R.SELVAKUMAR, Advocate for the petitioner the court made the following order:-

Petitioners were convicted for offences under Section 138 of Negotiable Instruments Act and sentenced to undergo each one year S.I and also both the accused shall directly pay Rs.15,00,000/- each i/d to undergo one month S.I. by Fast Track (Judicial Magistrate Level), Dharmapuri, under judgment in S.T.C.No.121 of 2014 dated 21.10.2016. The appeal preferred by petitioner in C.A.No.13 of 2016 on the file of the learned Additional District and Sessions Judge, Dharmapuri, came to be dismissed under judgment dated 16.02.2018. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for petitioner would submit that there are several infirmities and inconsistencies found in the case. It is contended that there are contradictions in the material particulars between the evidence of the witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of

sentence under Section 397 Cr.P.C. in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in **BIHARI PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380)** and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

3. Heard, the learned counsel for petitioner.

4. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

5. Therefore, in view of the fact that there are several infirmities in the case and there are arguable points involved in the revision, as contended by learned counsel for petitioners, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of Fast Track (Judicial Magistrate Level), Dharmapuri, and on further condition that the petitioner shall deposit 50% of the cheque amount before the Fast Track (Judicial Magistrate Level), Dharmapuri, within a period of four weeks and also the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-  
27/02/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

TO

1 THE ADDITIONAL DISTRICT AND  
SESSIONS JUDGE, DHARMAPURI.

2 THE FAST TRACK  
(JUDICIAL MAGISTRATE LEVEL),  
DHARMAPURI.

3 THE CHIEF JUDICIAL MAGISTRATE  
DHARMAPURI. [FOR INFORMATION]

C.C. to M/S.R.SELVAKUMAR Advocate on payment of necessary  
charges

Order

in  
CRL MP.2895/2018

in  
CRL RC.259/2018

Date :27/02/2018

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